United States District Court
For the Northern District of California

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES,

Plaintiff,

v.

BARRY LAMAR BONDS,

Defendant.
_______________________________________/

No. CR 07-00732 SI

ORDER RE: SEALING OF DOCUMENTS IN SUPPORT OF DEFENDANT'S MOTION *IN LIMINE*

Defendant's motions to exclude evidence are calendared for hearing on February 5, 2009. Defendant moved to file under seal exhibits A, B, and C in support of the first motion. The government opposed defendant's motion to seal. This Court granted the motion to seal pending further discussion of the matter at the February 5 hearing. On January 30, 2009, the Court received a letter from press representatives requesting that the sealing order be lifted and documents be placed on the public docket immediately.

Having reviewed the issues raised in the recent correspondence, the Court agrees with the press representatives that defendant has not demonstrated that release of these documents would impair his Sixth Amendment right to a fair trial and is inclined to agree that defendant will not be able to make this showing. *See, e.g., Associated Press v. U.S. Dist. Court for the Cent. Dist. of Cal.*, 705 F.2d 1143, 1146 (9th Cir. 1983) (concerns over pretrial publicity may warrant sealing of court filings if defendant can establish a substantial probability of irreparable damage to a defendant's fair-trial right, that alternatives to sealing will not protect that right, and that sealing will be an effective means of protecting against the perceived harm) (internal citation omitted). Accordingly, the Court will order the documents unsealed on the morning of February 4th unless defendant files a brief before that time demonstrating that the

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factors laid out in *Associated Press v. U.S. Dist. Court for the Cent. Dist. of Cal.* have been met.

IT IS SO ORDERED.

Dated: February 2, 2009

SUSAN ILLSTON
United States District Judge